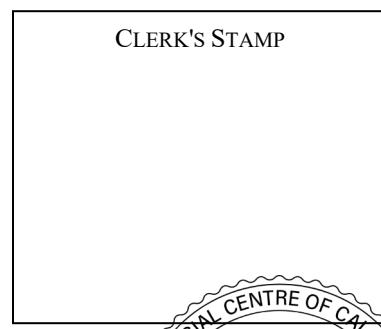


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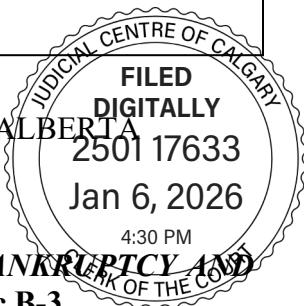
COURT OF KING'S BENCH OF ALBERTA

JUDICIAL CENTRE

CALGARY

PROCEEDING

**IN THE MATTER OF THE BANKRUPTCY AND  
INSOLVENCY ACT, RSC 1985, c B-3**



AND IN THE MATTER OF THE RECEIVERSHIP OF INDEPENDENT RENEWABLE RESOURCES CORP. and INDEPENDENT ENERGY HOLDINGS INC.

APPLICANT

**KSV RESTRUCTURING INC.** in its capacity as Court-appointed Receiver of INDEPENDENT RENEWABLE RESOURCES CORP. and INDEPENDENT ENERGY HOLDINGS INC.

DOCUMENT

**BENCH BRIEF OF THE RECEIVER**

ADDRESS FOR SERVICE AND  
CONTACT INFORMATION OF  
PARTY FILING THIS  
DOCUMENT

**BENNETT JONES LLP**

Barristers and Solicitors  
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Client File No.: 74735.61

Application Scheduled for January 15, 2026, at 2:00 p.m.  
before The Honourable Justice M.H. Bourque in the Commercial List

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## I. INTRODUCTION

1. This Bench Brief is submitted by KSV Restructuring Inc. ("KSV"), solely in its capacity as the court-appointed receiver and manager (the "**Receiver**") over all the current and future assets, undertakings and properties (collectively, the "**Property**") of Independent Renewable Resources Corp. ("IRRC") and Independent Energy Holdings Inc. ("IEH", and together with IRRC, the "**Debtors**") in support of the Application seeking the following relief:

- (a) an Order substantially in the form attached as **Schedule "2"** to the Application, among other things:
  - (i) declaring service of this Application and its supporting materials good and sufficient, and if necessary, abridging time for notice of the Application to the time actually given;
  - (ii) approving a sale process (the "**Sale Process**") with respect to the Property of the Debtors (the "**Opportunity**"), as more particularly described in the Sale Process, a copy of which is attached as **Schedule "A"** to the proposed Order;
  - (iii) approving the engagement of Sayer Energy Services ("Sayer") as the sales agent (the "**Sales Agent**") for the Sale Process, approving the execution by the Receiver of the engagement letter agreement dated as of January 15, 2026 (the "**Sales Agent Agreement**") between Sayer and the Receiver and attached as Confidential Appendix "1" to the First Report of the Receiver dated January 6, 2026 (the "**First Report**"), and for the Receiver to pay the Sales Agent's fees and expenses pursuant to and in accordance with the Sales Agent Agreement;
- (b) an Order substantially in the form attached as **Schedule "3"** to the Application, sealing **Confidential Appendix "1"** to the First Report;
- (c) an Order substantially in the form attached as **Schedule "4"** to the Application, among other things:

- (i) increasing the Receiver's maximum permitted borrowings under the Receivership Order (as defined below) from \$2,000,000 to \$3,200,000, and granting a corresponding increase to the Receiver's Borrowings Charge (as defined in the Receivership Order) for the purpose of funding the exercise of the powers and duties conferred upon the Receiver pursuant to the Receivership Order; and
- (ii) approving the Receiver's activities, since the date of the Receivership Order, as set out in the First Report; and

(d) granting such further and other relief, advice and directions as counsel may advise and this Honourable Court deems just.

2. For the reasons set out herein, the Receiver respectfully submits that the foregoing relief is necessary and appropriate in the circumstances.

3. The Sale Process is in the best interests of the Debtors and their stakeholders, and fair, reasonable and appropriate in the circumstances. The Sale Process, which is consistent with various insolvency sale processes approved by this Court in other proceedings, will adequately canvass the market in an open and transparent manner in order to maximize the value of the Opportunity and obtain the best offer or proposal.

4. The Order sealing Confidential Appendix "1" is critical to the Sales Agent, as Confidential Appendix "1" contains confidential and commercially sensitive information, the disclosure of which would cause serious harm to the Sales Agent. This Order is necessary to prevent Confidential Appendix "1" from being publicly disclosed and is the least restrictive means available to prevent the disclosure of confidential and commercially sensitive information. The engagement letters of sales agents are routinely sealed in insolvency proceedings by this Court.

5. Finally, the additional relief requested by the Receiver – increasing the Receiver's Borrowings Charge and approving the First Report – is necessary and appropriate in the circumstances in order to ensure the continued operation of the receivership and to maximize the realization for the benefit of the Debtors and all stakeholders.

## II. FACTS

6. The facts relevant to the Application are set out in detail in the First Report.<sup>1</sup>
7. Capitalized terms not otherwise defined herein have meanings ascribed to them in the Receivership Order granted by the Honourable Justice M.H. Bourque on November 13, 2025 (the "Receivership Order")<sup>2</sup> or the First Report, as applicable.

## III. ISSUES

8. The issues to be considered in this Application are whether this Honourable Court should:
  - (a) approve the Sale Process;
  - (b) approve the Receiver's engagement of the Sales Agent pursuant to the Sales Agent Agreement;
  - (c) seal Confidential Appendix "1" of the First Report;
  - (d) increase the Receiver's Borrowings Charge to \$3,200,000; and
  - (e) approve the activities of the Receiver.

## IV. LAW AND ARGUMENT

### A. The Sale Process Should be Approved

9. This Court's jurisdiction to approve the Sale Process is found in section 243(1)(c) of the *Bankruptcy and Insolvency Act*, RSC 1985, c B-3 ("BIA"),<sup>3</sup> which provides that, on application by a secured creditor, a court may appoint a receiver to "take any other action that the court considers advisable" if it considers it to be just or convenient to do so.

10. Subparagraphs 3(d), (k), and (m) of the Receivership Order expressly authorize the Receiver to:

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<sup>1</sup> First Report of the Receiver dated January 6, 2026 [First Report] [TAB A].

<sup>2</sup> Receivership Order, filed November 13, 2025 [Receivership Order] [TAB B].

<sup>3</sup> [Bankruptcy and Insolvency Act](#), RSC 1985, c B-3 at Part XI [BIA] [TAB 1].

- (a) engage consultants, appraisers, agents and experts to assist the Receiver in exercising its power and duties;
- (b) market the Property, including advertising and soliciting offers in respect of the Property or any part or parts thereof and negotiate such terms and conditions of sale; and
- (c) apply for any vesting order or other relief necessary to convey the Property or any part or parts thereof to a potential purchaser or purchasers.<sup>4</sup>

11. Although the decision to approve a particular form of sale process is distinct from the approval of a proposed sale transaction, courts have held that the factors which a court is to consider on such applications are intertwined with and draw from the principles set out in *RBC v Soundair Corp.*<sup>5</sup> When reviewing a sale process proposed by a receiver, a court should assess:

- (a) the fairness, transparency and integrity of the proposed process;
- (b) the commercial efficacy of the proposed process in light of the specific circumstances facing the receiver; and
- (c) whether the sale process will optimize the chances, in the particular circumstances, of securing the best possible price for the assets up for sale.<sup>6</sup>

12. When considering approval of a sale process in an insolvency, the Court must be satisfied that the sale process is run fairly, appropriately and reasonably, and that it canvasses the relevant market for the assets.<sup>7</sup> Courts will also give significant weight to the recommendation of a receiver, a court-appointed officer with significant expertise in insolvency proceedings.<sup>8</sup> A sale process is only required to be reasonable, not perfect.<sup>9</sup>

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<sup>4</sup> Receivership Order at paras 3(d), (k), and (m) [TAB B].

<sup>5</sup> *Royal Bank of Canada v Soundair Corp*, [1991 CanLII 2727, 91 CBR \(5th\) 285](#) (ON CA) [*Soundair*] [TAB 2].

<sup>6</sup> *Soundair* at para 16 [TAB 2]; *CCM Master Qualified Fund Ltd v blutip Power Technologies Ltd*, [2012 ONSC 1750](#) at para 6 [TAB 3]; *Royal Bank of Canada v Peace Bridge Duty Free Inc*, [2025 ONSC 4233](#) at paras 55-56 [TAB 4].

<sup>7</sup> *Sanjel Corporation (Re)*, [2016 ABQB 257](#) at para 80 [*Sanjel*] [TAB 5].

<sup>8</sup> *Marchant Realty Partners Inc v 2407553 Ontario Inc*, [2021 ONCA 375](#) at paras 10 [TAB 6].

<sup>9</sup> *Sanjel* at para 80 [TAB 5].

13. The Receiver, in consultation with and the Sales Agent, has developed the Sale Process to market and sell the Property.

14. In the Receiver's view, the Sale Process is a fair, reasonable, and transparent process that is consistent with sale processes granted in other insolvency proceedings.<sup>10</sup> The Receiver believes that the Sale Process will sufficiently canvass the market for and maximize the value of the Property, to the benefit of the Debtors and all stakeholders.<sup>11</sup>

15. As detailed in section 5 of the First Report, the Sale Process is intended to be conducted in two phases, whereby Phase 1 of the Sale Process will be to solicit indicative letters of intent ("LOIs") from interested parties, and during Phase 2, any parties who submit qualifying LOIs will be required to submit binding offers on or before the Final Bid Deadline.

16. The Sale Process further contemplates that if, following the review and evaluation of all Qualified Final Bids, the highest and best bid is not sufficient to repay Cortland Credit Lending Corporation ("Cortland")<sup>12</sup> in full and is otherwise not acceptable to Cortland, the Receiver may terminate the Sale Process, and Cortland will have the right to submit a credit bid for the Property. Cortland will not be required to submit a credit bid during the Sale Process, and the right to credit bid may be exercised after the Sale Process has been terminated, in the circumstances described in the Sale Process.

17. The Receiver submits that the Sale Process represents the best opportunity to maximize value for the Debtors' estate and all stakeholders, and Cortland supports the Sale Process. The proposed structure of the Sale Process is reasonable, fair, and transparent, and is appropriate in the circumstances. The Sale Process should therefore be approved.

## **B. The Engagement of the Sales Agent Should be Approved**

18. As stated above, subparagraph 3(d) of the Receivership Order grants the Receiver the authority to engage a sales agent.

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<sup>10</sup> First Report, s 5 [TAB A].

<sup>11</sup> First Report, s 5 [TAB A].

<sup>12</sup> The Debtors' largest and senior secured creditor.

19. Canadian courts commonly approve the engagement of professionals necessary to advance insolvency and restructuring proceedings.<sup>13</sup> Courts have considered the following factors when determining whether to approve the engagement of financial advisors:

- (a) whether the debtor and the court officer overseeing the proceedings believe that the quantum and nature of the remuneration are fair and reasonable;
- (b) whether the financial advisor has industry experience and/or familiarity with the business of the debtor; and
- (c) whether the success fee is necessary to incentivize the financial advisor.<sup>14</sup>

20. As detailed in section 4 of the First Report, Sayer is a leading oil and natural gas mergers and acquisition advisory firm with experience across the upstream, midstream, and downstream sectors.

21. It is the Receiver's view that, given Sayer's experience marketing comparable assets, Sayer is best suited to advise the Receiver with regard to the Sale Process in the most efficient and commercially effective manner. The Receiver believes that Sayer's proposed remuneration is fair, reasonable and appropriate in the circumstances.

22. Further, Cortland supports the Receiver's decision to retain Sayer and the terms of the Sales Agent Agreement.

23. For these reasons, the Receiver respectfully submits that the Court should approve its engagement of Sayer as Sales Agent.

### **C. The Sealing Order Should be Granted**

24. As stated above, subparagraph 3(m) of the Receivership Order grants the Receiver the authority to apply for a sealing order.

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<sup>13</sup> *Walter Energy Canada Holdings, Inc (Re)*, [2016 BCSC 107](#) at para [27](#) [TAB 7].

<sup>14</sup> *Danier Leather Inc (Re)*, [2016 ONSC 1044](#) at para [47](#) [TAB 8].

25. This Court has broad discretion to grant a sealing order.<sup>15</sup> A sealing order may be granted when:

- (a) an order is required to prevent serious risk to an important interest because reasonable alternative measures will not prevent the risk; and
- (b) the salutary effects of the order outweigh its deleterious effects, including the effects on the right to free expression, which includes public interest in open and accessible court proceedings.<sup>16</sup>

26. The Supreme Court of Canada restated the test an applicant must satisfy to obtain a sealing order in *Sherman Estate v Donovan*.<sup>17</sup> An applicant must demonstrate:

- (a) court openness poses a serious risk to an important public interest;
- (b) the order sought is necessary to prevent this serious risk to the identified interest because reasonably alternative measures will not prevent this risk; and
- (c) as a matter of proportionality, the benefits of the order outweigh its negative effects.<sup>18</sup>

27. In the context of insolvency proceedings, it is common for the Court to seal the Receiver's confidential documents containing commercially sensitive information.<sup>19</sup> This step is necessary to ensure fair play so that competitors do not obtain an unfair advantage through access to court records.<sup>20</sup>

28. The Receiver submits that all three requirements of the *Sherman Estate* test have been met in the circumstances.

29. The important public interest is the commercial interests of Sayer in protecting its competitive position and its commercial interest in facilitating the Sale Process. In particular,

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<sup>15</sup> [Alberta Rules of Court](#), Alta Reg 124/2010, s 6.28 [TAB 9].

<sup>16</sup> *Sierra Club of Canada v Canada (Minister of Finance)*, [2002 SCC 41](#) at para 53 [TAB 10].

<sup>17</sup> *Sherman Estate v Donovan*, [2021 SCC 25](#) [*Sherman Estate*] [TAB 11].

<sup>18</sup> *Sherman Estate* at para 38 [TAB 11].

<sup>19</sup> *Alberta Treasury Branches v Elaborate Homes Ltd*, [2014 ABQB 350](#) at para 54 [*Elaborate Homes*] [TAB 12]; *Look Communications Inc v Look Mobile Corporation*, [2009 CanLII 71005](#) (ONSC) at para 17 [*Look Communications*] [TAB 13].

<sup>20</sup> *Elaborate Homes* at para 54 [TAB 12]; *Look Communications* at para 17 [TAB 13]; *Maxtech Manufacturing Inc (Re)*, [2010 ONSC 1161](#) at para 30 [TAB 14].

Confidential Appendix "1" is an unredacted copy of the Sales Agent Agreement, which contains commercially sensitive information with respect to Sayer's compensation and fee structure.

30. The public disclosure of the confidential and commercially sensitive information contained in Confidential Appendix "1" may be detrimental and prejudicial to this important public interest, and may irreparably compromise the ability of the Sayer to maintain its competitive position in the market.

31. As a matter of proportionality, the benefit of sealing Confidential Appendix "1" in order to protect the Sales Agent far outweighs any deleterious effects. The Receiver has been careful to only seal those materials that contain confidential information to ensure as much information as possible remains accessible to the public.

32. The Receiver submits that a sealing order is a proportionate and appropriate measure to prevent any risk of harming the Sales Agent. Notice to the media of this application to restrict access was provided via the Court's website, which was confirmed by the Court by email on January 5, 2026.

#### **D. The Increase to the Receiver's Borrowings Charge Should be Approved**

33. Pursuant to the Receivership Order, the Receiver's borrowings under the Receiver's Certificates are not to exceed \$2,000,000, provided that the borrowings may be increased by further Order of this Court.<sup>21</sup>

34. Canadian courts commonly grant similar increases to receivers' borrowings to facilitate the continued administration of receivership proceedings.<sup>22</sup>

35. The proposed increase in the Receiver's borrowings is necessary to enable the Receiver to, among other things:

- (a) continue operations at the Echo Refinery until the end of the Sale Process; and

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<sup>21</sup> Receivership Order at para 20 [TAB B].

<sup>22</sup> *Yukon (Government of) v Yukon Zinc Corporation*, [2020 YKSC 18](#) [TAB 15]; *Leslie & Irene Dube Foundation Inc v P218 Enterprises Ltd*, [2014 BCSC 1855](#) [TAB 16].

(b) maximize the value of the Echo Refinery for the benefit of the Debtors and their stakeholders.

36. As of the date of filing the Application, the Receiver has borrowed \$1,136,269 to fund disbursements related to the ongoing administration of the estate, with remaining availability of \$863,761. Based on the Receiver's Cash Flow Forecast, the Receiver will require additional borrowings of \$2,050,000 during the Cash Flow Period.

37. The Receiver has acted reasonably and in good faith during the administration of the receivership, and Cortland supports this increase to the Receiver's Borrowings Charge.

38. Accordingly, the Receiver is seeking an increase in the Receiver's Borrowings Charge to \$3,200,000, which is necessary, reasonable, and in the best interests of the Debtors and their stakeholders.

#### **E. The Activities of the Receiver Should be Approved**

39. This Court has jurisdiction to approve the activities of a court officer as described in its reports to court.<sup>23</sup> This Court routinely grants such approval in the context of receivership proceedings, recognizing that it:

- (a) brings the receiver's activities before the Court;
- (b) enables the Court to satisfy itself that the receiver's activities have been conducted prudently and diligently;
- (c) allows the concerns of stakeholders to be considered and addressed;
- (d) provides stakeholders with an opportunity to bring to the fore any concerns they may have regarding the receiver's diligence and prudence;
- (e) provides protection for the Receiver not otherwise provided by statute;
- (f) permits the receiver to move forward with the next steps in the proceedings; and

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<sup>23</sup> *Hanseng Evergreen Inc, (Re), 2017 ONSC 7161* at para 15 [*Evergreen Inc*] [TAB 17].

(g) protects creditors from the delay and expense that would be caused by the re-litigation of steps taken to date or by potential indemnity claims by the Receiver.<sup>24</sup>

40. As noted in *Bank of Montreal v Ladacor AMD Ltd*, a receiver is required to exercise such reasonable care, supervision and control of a debtor's property as an ordinary person would give to his or her own.<sup>25</sup>

41. Since the granting of the Receivership Order, the Receiver has acted in good faith and with due diligence to, among other things, correspond extensively regarding the Echo Refinery and all aspects of these proceedings, liaise with the Canada Revenue Agency regarding tax accounts and remittances, prepare and distribute the statutory reports, work with the Receiver's counsel to prepare court materials, including the First Report. The Receiver has performed its duties in a commercially reasonable manner in consideration of all the stakeholders' interests.

42. Having regard to the foregoing considerations, the Receiver submits that it is appropriate for this Court to exercise its discretion to approve the Receiver's activities as described in the First Report.

## V. CONCLUSION

43. The Receiver respectfully requests that this Honourable Court grant the Orders, substantially in the forms attached to the Application, for the following relief:

- (a) approval of the Sale Process;
- (b) approval of the Receiver's engagement of the Sales Agent pursuant to the Sales Agent Agreement;
- (c) sealing Confidential Appendix "1" of the First Report;
- (d) increasing the Receiver's Borrowings Charge to \$3,200,000; and
- (e) approval of the actions, conduct and activities of the Receiver.

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<sup>24</sup> *Evergreen Inc* at paras 15-17 [TAB 17].

<sup>25</sup> *Bank of Montreal v Ladacor AMD Ltd*, 2019 ABQB 985 at para 130 [TAB 18].

**ALL OF WHICH IS RESPECTFULLY SUBMITTED**, this 6<sup>th</sup> day of January, 2026.

**BENNETT JONES LLP**

A handwritten signature in blue ink, appearing to read "CB".

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Sean Zweig / Chyna Brown  
Counsel to the Receiver, KSV Restructuring Inc.

## VI. TABLE OF AUTHORITIES

1. *Bankruptcy and Insolvency Act*, RSC 1985, c B-3
2. *Royal Bank of Canada v Soundair Corp*, [1991 CanLII 2727, 91 CBR \(5th\) 285](#) (ON CA)
3. *CCM Master Qualified Fund Ltd v blutip Power Technologies Ltd*, [2012 ONSC 1750](#)
4. *Royal Bank of Canada v Peace Bridge Duty Free Inc*, [2025 ONSC 4233](#)
5. *Sanjel Corporation (Re)*, [2016 ABQB 257](#)
6. *Marchant Realty Partners Inc v 2407553 Ontario Inc*, [2021 ONCA 375](#)
7. *Walter Energy Canada Holdings, Inc (Re)*, [2016 BCSC 107](#)
8. *Danier Leather Inc (Re)*, [2016 ONSC 1044](#)
9. *Alberta Rules of Court*, Alta Reg 124/2010
10. *Sierra Club of Canada v Canada (Minister of Finance)*, [2002 SCC 41](#)
11. *Sherman Estate v Donovan*, [2021 SCC 25](#)
12. *Alberta Treasury Branches v Elaborate Homes Ltd*, [2014 ABQB 350](#)
13. *Look Communications Inc v Look Mobile Corporation*, [2009 CanLII 71005](#) (ONSC)
14. *Maxtech Manufacturing Inc (Re)*, [2010 ONSC 1161](#)
15. *Yukon (Government of) v Yukon Zinc Corporation*, [2020 YKSC 18](#)
16. *Leslie & Irene Dube Foundation Inc v P218 Enterprises Ltd*, [2014 BCSC 1855](#)
17. *Hanfeng Evergreen Inc, (Re)*, [2017 ONSC 7161](#)
18. *Bank of Montreal v Ladacor AMD Ltd*, [2019 ABQB 985](#)

## **VII. COMPENDIUM OF DOCUMENTS**

- A. First Report of the Receiver dated January 6, 2026
- B. Receivership Order, filed November 13, 2025